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ATTORNEYS FOR PLAINTIFF
TARI LABS, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

TARI LABS, LLC,

Plaintiff,

v.

LIGHTNING LABS, INC.,

Defendant.

Case No. 3:22-cv-07789-WHO

REPLY DECLARATION OF MICHAEL BERRY IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Date:	March 8, 2022
Time:	2:00 p.m.
Judge:	Hon. William H. Orrick
Courtroom:	Via Zoom videoconference

I, Michael Berry, declare:

1. I am Head of Protocol at Tari Labs, LLC ("Tari"). I base this declaration on facts within my personal knowledge and documents and information that I have reviewed in the course of performing my job responsibilities. If called upon to testify, I could and would testify competently to the information below.

A. My Background

2. I am a Rust developer and high level software architect. Rust is a high-level general purpose programming language. As a developer, I design and develop code in the Rust programming language for use with certain software or hardware products. As a software architect, I make high-level design choices and frame technical standards for those products. I have also worked as a .NET developer. .NET is a free, cross-platform, open source, developer platform for building many different types of applications, including apps for the web, mobile devices, and desktops. As Head of Protocol at Tari, my job responsibilities include developing the Tari base layer and second layer protocols and applications.

3. I have worked at Tari since July, 2018, and have been Head of Protocol at Tari since July, 2020. I have been working in the field of software development and software architecture since at least February 2005, and in the blockchain space since 2018, when I joined Tari. At Tari I employ my skills as a developer and a software architect to help build and modify the TARI protocol and platform, as well as other TARI®-branded goods and services

B. TARI® and TARO Protocols Will Interact In Public

4. I have reviewed declarations submitted by Lightning Labs employees to the Court which appear to state that Lightning Labs' TARO platform is not public facing, that the services provided by the TARI and TARO platforms are different, and that developers for Bitcoin and for Monero are separate groups that are so sophisticated that they would not be confused by the highly similar names TARI and TARO. In my experience this is not true.

5. Both the TARI® and TARO protocols are open-source platforms for digital assets, and both have second layer protocols. As a result, developers searching for TARI® and TARO

repositories on sites like GitHub could be easily confused when searching for either, and could conclude that TARI® and TARO are related or interoperable, when they are not.

6. In my experience, developers do not work for just one project or just on one blockchain. To the contrary, developers work on projects they think have potential or otherwise interest them. As a result, developers who work on Bitcoin and TARO may opt to work on TARI®, and vice versa.

C. The TARI® Protocol Is Not Limited to the Monero Platform

7. The TARI® protocol leverages the Monero Platform, but is independent of Monero.

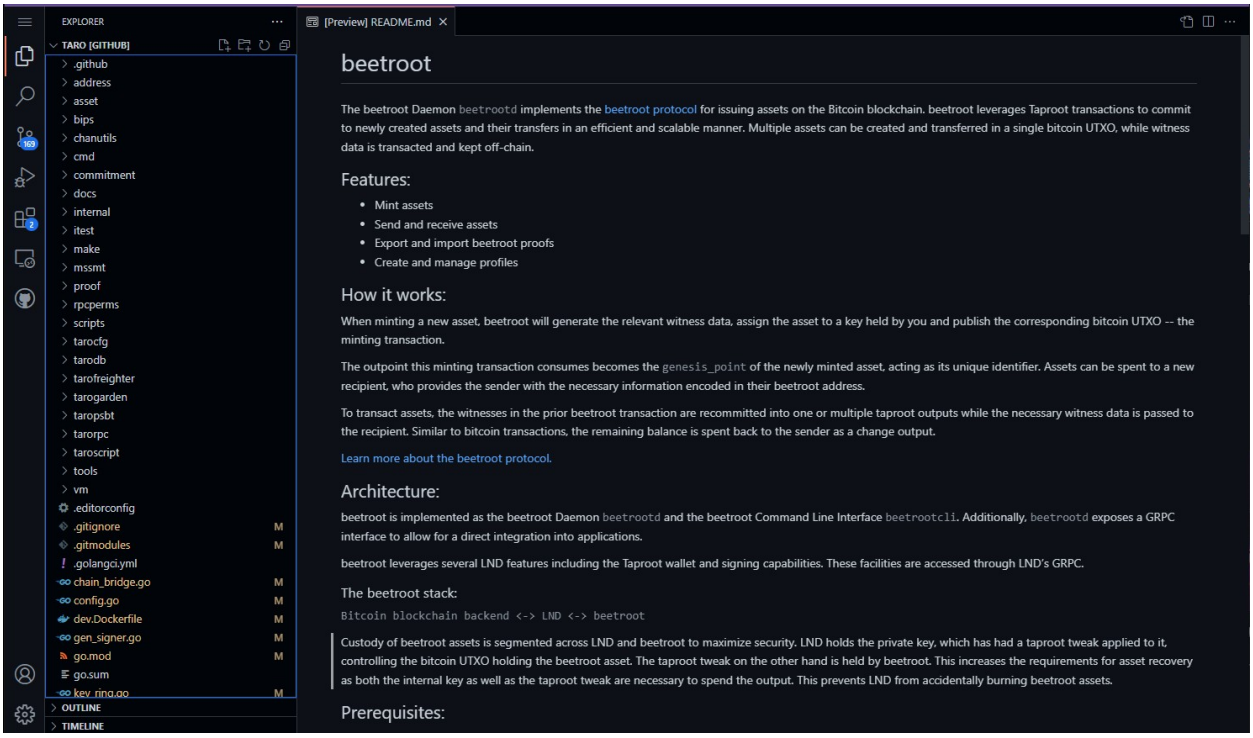
8. TARI® has its own base layer, which means that if Monero stopped working today TARI® would be able to continue to operate. TARI® works with Monero to allow miners for Monero coins to mine for Tari tokens and receive rewards from Monero. Also, Tari's testnet wallet contains functionality that allows users to perform "Atomic Swaps," which means that users can trade TARI® tokens for Bitcoin and vice versa.

~~9.~~ TARI® is a working and operable protocol. It has been running a "testnet" version of the platform since April 2020, and its most recent testnet version was released four or five months. A few weeks ago, Tari moved to the "stagenet" stage, in which changes to code happen less frequently than in the testnet phase. Because these stages still require troubleshooting and bug-fixing, Tari issues tokens without monetary value – which Defendants casually refer to as "fake TARI tokens" – to protect users by ensuring that users do not lose valuable assets while trying out the TARI platform. If the situation required, however, the current code for the TARI protocol could be launched as a "mainnet" version right away.

D. Lightning Labs Could Easily Change the Name of "TARO" Within a Matter of Hours, If Not Minutes

10. Based on my experience revising and updating protocols, including protocol nomenclature and interrelated tradenames, it would be trivially easy and low-cost for Defendant to change its name from TARO to another appropriate name. The transformation would involve two simple steps.

11. The first step would be to change the TARO name as it appears in all current software code. This can be done with a simple "search and replace" command run from a single computer terminal and would likely take a few minutes to accomplish. This is a common operation and most, if not all Integrated Development Environments ("IDE") and even basic text editors provide this function and can be done in a matter of minutes. Defendant would need to change the TARO name as it appears in files and folder names on Github, which is the repository for the TARO code. Github has the functionality to open a web-based VSCode (Visual Studio Code) IDE for a repository by pressing "." (period). I made a copy of the Taro repository and replaced all instances of TARO with a suggested new name, "BEETROOT, in under a minute.

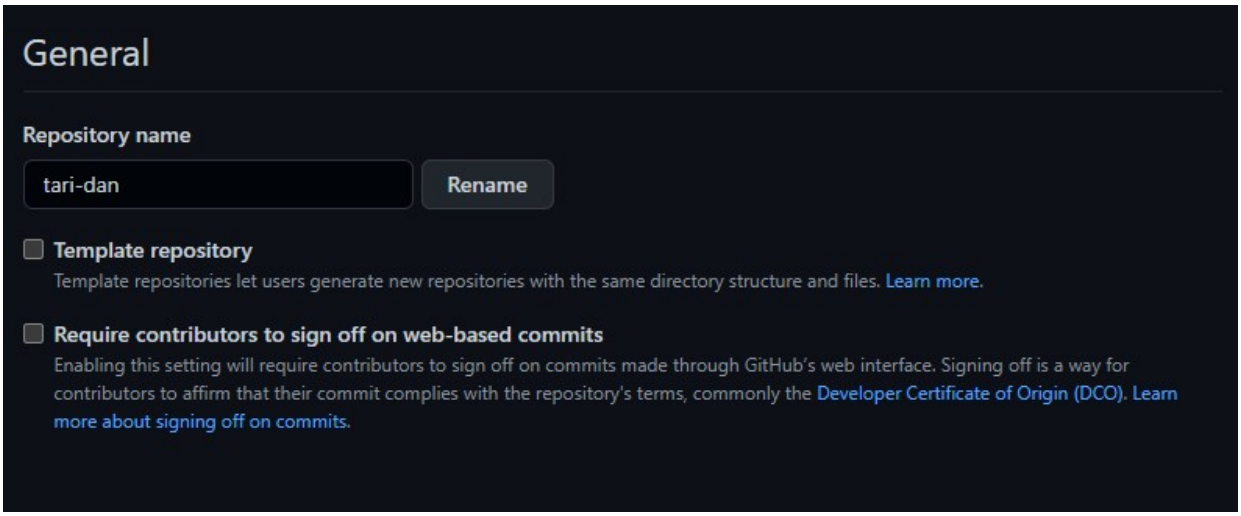


This results in 169 file changes which, even if reviewed manually, would not take more than an hour to confirm.

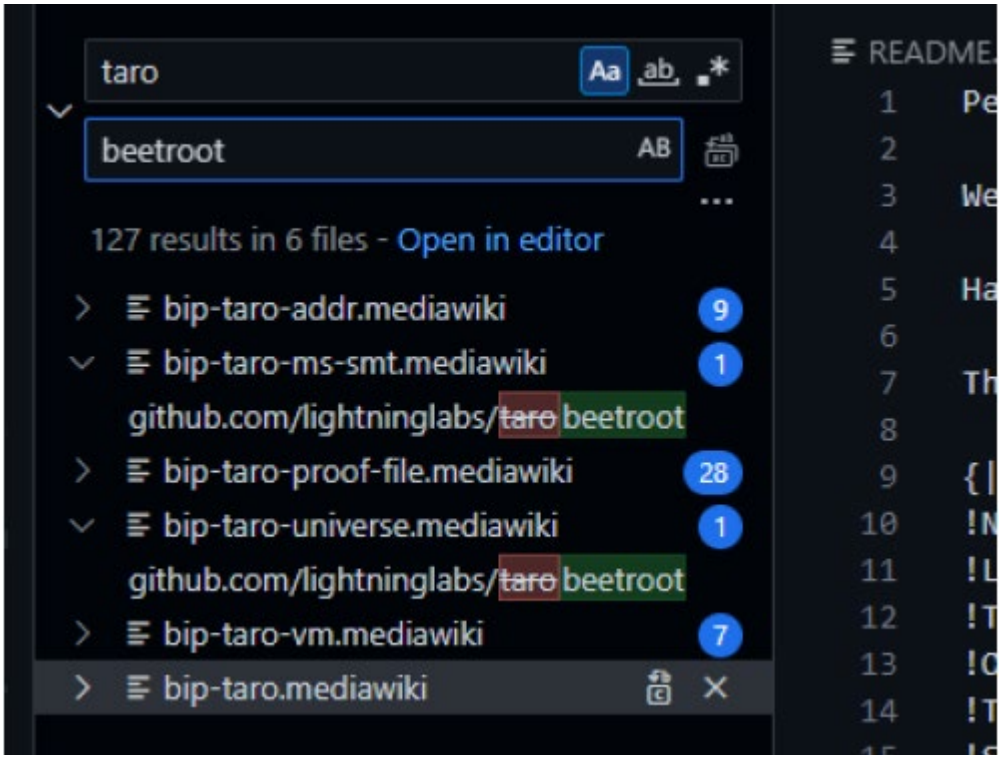
12. One particular file that must be manually edited is the submodule link file ".gitmodules." Also, Defendant would want to rename appearances of TARO in the Bitcoin "BIP" ("Bitcoin Improvement Proposals") repository on Github. This can be done in the Github web

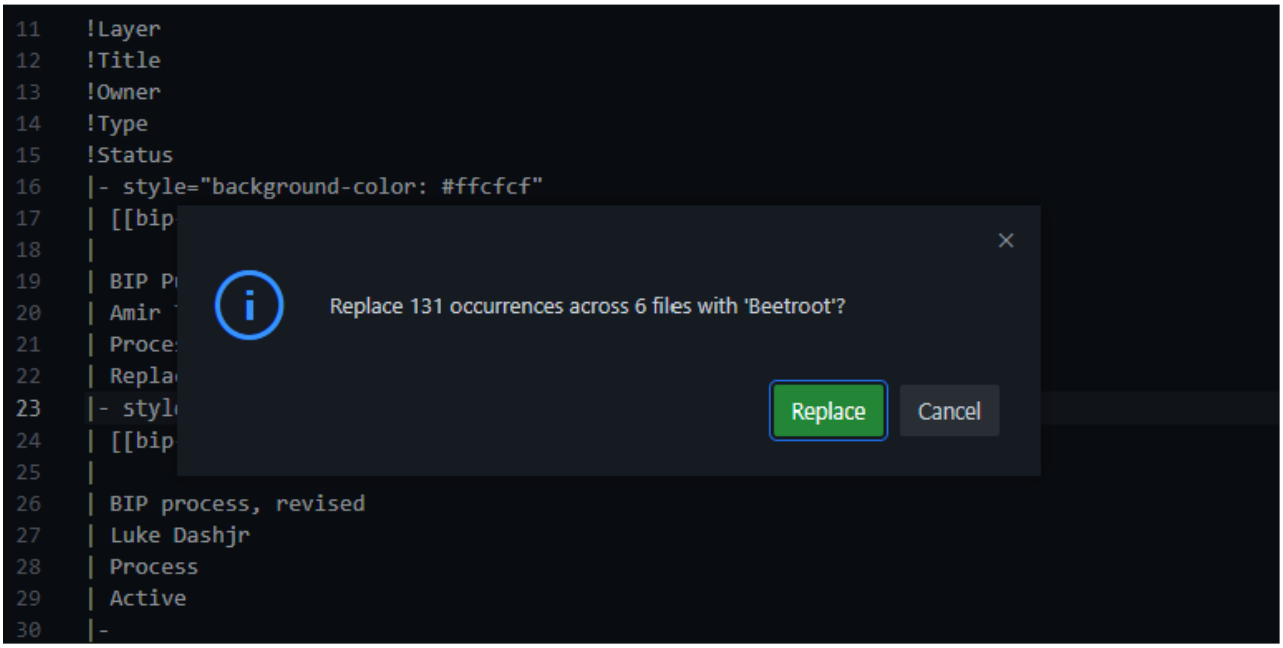
interface or via the git command line. It would not take more than several minutes, and less than an hour to perform this task.

13. Renaming the Taro repository name can also be done via the Github interface, by clicking the "Rename" button, which is the first button presented on the Settings page. Here is an illustration of that page:



14. Repeating the same find and replace exercise for Taro for files within the Taro BIPS fork repository can be done in minutes, with only six files being affected:





15. Last, Defendant would need to notify its developers and potential consumers via a press release that it has changed its name from TARO to the new name.

16. The press release could present the name change as part of an upgrade or new opportunity for the TARO protocol. In support of the name change, Defendant would also likely want to contact the relevant industry press, which is likely fewer than 20 different outlets, many of which have already covered Defendant and its TARO project in prior articles.

E. What Lightning Labs Is Doing Will Be (And Is) Confusing

17. As a developer who interacts with multiple protocols and interfaces involving blockchains, I believe that what Lightning Labs is doing is deeply irresponsible. By using a tradename so close to Tari's TARI® interface and products, they are inviting confusion and mistakes.

18. Even a sophisticated developer like myself will be dismayed and confused to encounter both TARI® and TARO in the market. The names are so similar that a developer could download the wrong development tools from Github, or start developing for one of the protocols thinking falsely that TARI and TARO are compatible and interrelated, when they are clearly not. Additionally, attracting developers is an important part of relying on an open source model, and if

developers are discouraged from developing for TARI because of confusion or uncertainty, they may decide to choose another protocol to develop for. The results could be disastrous.

19. Even if only 1 or 2% of user TARI® transactions are affected by Lightning Labs' decision, it could impact millions of dollars in transactions and assets and destroy confidence in *both* platforms.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: March 2, 2023

By: DocuSigned by: 00DACE8D0AAF4CD...
MICHAEL BERRY